

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KENEDY JABREY SMITH,

Petitioner,

Case No. 1:24-cv-64

v.

**HAMILTON COUNTY JUSTICE
CENTER,**

**JUDGE DOUGLAS R. COLE
Magistrate Judge Bowman**

Respondent.

ORDER

Petitioner Kenedy Jabrey Smith filed this petition for a writ of habeas corpus to contest criminal charges that were pending against him in state court at that time. (Doc. 1, #1–6). Since filing his habeas petition, Smith pleaded guilty to those underlying charges—trafficking fentanyl and cocaine—and the state court sentenced him. Entry Withdrawing Plea of Not Guilty and Entering Plea of Guilty, *State v. Smith*, No. B2305830 (Hamilton Cnty. Ct. of Com. Pl. Mar. 1, 2024), <https://perma.cc/MU4P-UXYG>; Judgment Entry, *State v. Smith*, No. B2305830 (Hamilton Cnty. Ct. of Com. Pl. Mar. 1, 2024), <https://perma.cc/L6ZB-5XFE>. Smith is now out on parole. Ohio Department of Corrections, *Offender Details*, <https://perma.cc/CC7U-EUCQ>.

On February 21, 2024, Magistrate Judge Bowman issued an order to show cause why Smith’s habeas petition should not be dismissed as unexhausted and premature. Smith did not respond to the show cause order. So, on July 1, 2024, the Magistrate Judge, undertaking the screening that Rule 4 of the Rules Governing 2254

Cases requires, issued a Report and Recommendation (R&R) recommending this Court deny Smith's habeas petition without prejudice because his claims are unexhausted. (Doc. 4, #19–20). She stated in her R&R that Smith would have fourteen days to object. The Clerk's Office sent the R&R to the Hamilton County Justice Center and it was returned as undeliverable. (Doc. 5). Smith has yet to update his address with the Court as the Court's rules require, so the Court is unable to send the R&R to Smith. *See* S.D. Ohio Guide for *Pro Se* Civ. Litigants 14 (Feb. 13, 2017). Because Smith has failed to object or update his address such that this Court could provide notice of the R&R and give more time to object, the Court considers the R&R unobjected, and reviews it for clear error only. *Williams v. Parikh*, ___ F. Supp. 3d ___, 2023 WL 8824845, at *3 (S.D. Ohio 2023).

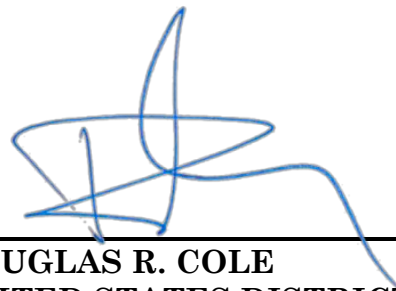
The Court finds no error in the Magistrate Judge's analysis, let alone clear error. Smith's claims are unexhausted, and his petition is premature. This Court accordingly **ADOPTS** the R&R (Doc. 4) in full and **DISMISSES** Smith's Petition **WITHOUT PREJUDICE**. *Flowers v. Morgan*, 940 F. Supp. 2d 136, 138 (D. Del. 2013) ("Generally, a federal court will dismiss without prejudice a habeas application consisting entirely of unexhausted claims.").

The Court **DIRECTS** the Clerk to enter judgment and to **TERMINATE** this case on its docket.

SO ORDERED.

August 5, 2024

DATE



DOUGLAS R. COLE
UNITED STATES DISTRICT JUDGE